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25.10

About the Payroll Policies

25.10.10 Purpose of these policies

This section provides State of Maine payroll accounting policies and procedures as found in statute, Controller Bulletins, memos, and other sources of information prepared over a number of years for the purpose of preparing, processing and recording payrolls. The purpose of the Payroll Policy Manual is to provide Departments with guidance for the appropriate classification and processing of payroll expenditures in compliance with state and federal finance law.

25.10.20 Authority for these policies

The Office of the State Controller is responsible for establishing the necessary systems, policies, and procedures for payroll preparation and accounting in accordance with federal and state guidelines.

Civil Service Law (Title 5 MRSA, Chapters 56, 60, 65, 67, 68, 69, 71 and Chapter 372)

Civil Service Rules (reference here – sections-chapters)

25.10.30 Applicability

This chapter applies to all Executive Departments unless otherwise exempted by statute and to all their payroll processing and payment systems used to pay employees' salaries, wages, and benefits. This chapter applies to all Departments, which include state agencies, boards, offices, institutions, departments, divisions, independent agencies, commissions and elected offices of the State of Maine within the Executive Branch.

25.10.30.a

All Executive agencies are required to use the MFASIS – HR System to pay employees.

25.10.40 Employee definitions

25.10.40.a State Employee

Civil Service Law - Title 5 Section 7032, defines a state employee as:

6. Employee. "Employee" means any person holding a position subject to appointment by an appointing authority. [1985, c. 785, Pt. B, §38 (new) .]

6-A. Employee from the executive branch in the unclassified service. "Employee from the executive branch in the unclassified service" means all executive branch employees listed in section 931, but does not include any elective or constitutional officers listed in that section or their direct appointees. [1997, c. 498, §2 (new) .]

25.10.40.b State employees are individuals who are employed in State positions as authorized by applicable statutes on Human Resource authority. Compensation for employees includes regular salary, overtime and other financial benefits authorized in statute and collective bargaining agreements, etc. Executive departments are subject to the personnel rules and regulations of the Bureau of Human Resources (BHR).

25.15

Central Payroll Systems

25.15.10 **Maine Financial and Administrative Statewide Information System (MFASIS-HR)**

The Maine Financial and Administrative Statewide Information System (MFASIS-HR) is a biweekly payroll/personnel/position control system that supports all employees in all branches of state government. MFASIS-HR provides flexible functionality for state human resources and payroll administrators and assures conformity to state and federal financial and legal requirements.

MFASIS-HR is comprised of four major subsystems:

- Human Resources – Personnel
- Payroll
- Position Control
- Benefits Administration

The MFASIS-HR payroll interfaces and updates biweekly with the state's accounting system, the Maine Financial and Administrative Statewide Information System (MFASIS-Accounting).

The responsible party – The MFASIS Executive Committee, comprised representation from the Bureau of Human Resources, Office of the State Controller, Bureau of Information Services and the Bureau of Budget, jointly establish/identify and implement the policy on MFASIS.

25.15.20 **Maine State Time and Attendance System (MS-TAMS)**

20.15.20.a The Maine State – Time and Attendance Management System (MS-TAMS) is designed for State employees to record time worked and leave taken. It replaces paper time sheets, for all employees whose agencies have computer access to the State's Wide Area Network (WAN)

Agencies with employees that do not have access to a computer on the State's Wide Area Network (WAN) must develop a process for employee's time to get entered in to MS-TAMS. As an alternative, the State Controller can approve a data entry role within agencies for entering time based on a paper time sheet submitted by the employee.

TIME SHEET REQUIREMENTS

1. Each employee that participates with MS-TAMS must complete, electronically sign, and submit a biweekly time sheet at the end of the pay period in order to be paid.
2. Agencies with employees that do not have access to a computer on the State's Wide Area Network (WAN) must develop a process for employee's time to get entered in to MS-TAMS. As an alternative, the State Controller can approve a data entry role within agencies for entering time based on a paper time sheet submitted by the employee.
3. If an employee that normally submits time electronically is absent or unable to complete and sign the MS-TAMS time sheet, the supervisor or agency payroll officer must:
 - Complete an automated time sheet for the employee
 - Obtain the employee's signature upon their return, either on a paper or electronic copy.
4. If a supervisor or alternate supervisor is not available to sign the employee's time sheet, the payroll officer shall approve the time sheet to ensure the employee's time gets entered to MS-TAMS. The supervisor or alternate can then sign a paper copy of the time sheet upon their return.

25.15.30**MFASIS Warehouse - HR**

The State of Maine Information Warehouse is a centralized, integrated database that gathers data from a variety of source systems.

The Information Warehouse has been the source of Payroll Cost Reporting distribution and earnings data since August 1993. Human Resource data is available from Fiscal Year 1993 to the present fiscal year.

It is important to note that the data available in the Information Warehouse is only accessible with specific authorization by individual Departments through a standard query tool. Unlike standard reports, the Warehouse is designed to answer specific questions put forth by the user.

25.20
Payroll Accounting Requirements

COMING SOON

25.30

Wage Computations

25.30.10 Pay dates

The Controller's Office shall pay the salaries of all state employees on the bi-weekly pay dates established by the Contract and defined by the Controller's Office.

25.30.20 Taxable fringe benefits

Any property or service that an employee receives from an employer in place of or along with regular wages is a fringe benefit that may be subject to federal employment taxes. If taxable, these benefits are included in gross income and subject to federal income, OASI, and Medicare taxes.

Refer to IRS regulations for the appropriate calendar year regarding specific taxation, valuation, and reporting information. IRS Publication 15-B "Employer's Guide to Taxable Fringe Benefits" provides detailed information on several types of benefits and is available at

<http://www.irs.gov/pub/irs-pdf/p15b.pdf>.

Fringe benefits that are taxable under certain circumstances include, but are not limited to:

- Awards and prizes
- Personal use of agency provided vehicles, such as commuting between official residence and official workstation
- Clothing allowances
- Educational assistance
- Lodging
- Meals
- Moving expenses
- Unspent, unreturned travel advances

25.30.30 Non-cash employee benefits

Non-cash benefits are benefits the State of Maine provides to its employees in exchange for services provided by those employees to the State of Maine. These non-cash benefits are assigned a value and are reported on an employee's W-2 as earned income. These benefits are recorded in the state payroll system and reported on the employee's W-2. Please refer to IRS Publication 15-B, "Employers Tax Guide To Fringe Benefits" for additional guidance on non-cash fringe benefits and their valuations.

Some examples of non-cash benefits are listed below.

25.30.30.a Non-Cash Benefits include:

- State or Leased Car Usage
- Group Term Life Insurance Coverage (Imputed Income)

25.30.30.b Housing Allowances

Employees who either live in state owned property or a property in which the state pays the rent on the employee's behalf are receiving a housing allowance benefit. This non-cash benefit is a W-2 tax reportable event.

25.30.30.c State or Leased Car Usage

Employees who have the use of a state owned car for domicile travel or who use a car owned or leased by the state are receiving a state car usage benefit.

25.30.30.d Group Term Life Insurance (Imputed Income)

The State of Maine provides Group Term Life Insurance with a value of \$50,000 or less. It is a tax-free benefit to the employee, if it is provided in a non-discriminatory fashion. The value of the cost of the coverage in excess of \$50,000 is a non-cash benefit and must be reported on the employee's W-2.

25.35

Wage Reporting

25.35.10 Policy

Once an employer has paid wages that are taxable to an employee in a calendar year, the employer must report to the employee the taxable amounts paid and any tax withheld so the employee can file their individual income tax returns. These amounts must also be reported to Maine Revenue Services and the Social Security Administration (SSA) so an employee's earnings and benefit accounts can be properly credited. The SSA shares employee earnings and tax information with the IRS.

The employer reports Forms W-2, Wage and Tax Statements to the SSA, and the state and local taxing agencies. The deadline for issue of a Form W-2 is January 31st of the following year.

25.35.20 Distribution of Form W-2

The State of Maine's policy is to mail Form W-2's to employees at their home addresses. When an employer is unable, after a reasonable effort, to deliver an employee's Form W-2, the employee's Department is required to keep those copies for four years. Mailing the Form W-2 to an employee's last known address is considered a reasonable effort to make delivery.

To ensure proper delivery of Form W-2's, payroll officers must verify that employees' home addresses are accurately recorded in the payroll system prior to W-2 processing. Undeliverable Form W-2's will be returned to the employee's Department, and the Department's Payroll Department is responsible for distributing them to employees. If the employee worked for multiple state Departments during the tax year, the undeliverable W-2 will be returned to the last Department associated with the most recent "active job".

25.35.30 Reissued Form W-2

If an employee loses a Form W-2 or it is destroyed, the employee's Department will request a duplicate W-2 by completing a "duplicate W-2 or Wage Statement Request Form" and forwarding it to the Office of the State Controller.

25.35.40 Form W-2 Corrections

There are two types of corrections that can be made to a Form W-2, Non-Financial and Financial. Non-Financial corrections are necessary when the employee's name, social security number or address is incorrect on the Form W-2. Financial corrections are necessary when the employee has incorrect wage or tax information on the Form W-2.

25.35.50 Non-financial W-2 Corrections

If the Department or employee determines that the name or social security number, on an employee's Form W-2 is incorrect, the Department must submit a request in writing to the Office of the State Controller. The Office of the State Controller will file the forms W-2C and W-3C with both the Social Security Administration (SSA) and Revenue Services on behalf of the employee.

25.35.60 Financial W-2 Corrections

If the Department or employee determines that the wage or tax information on an employee's Form W-2 is incorrect, the Department must submit a request for the correction W-2 to the Office of the State Controller. The Office of the State Controller will complete and file Forms W-2C and W-3C to SSA and Revenue Services on behalf of the employee.

25.40

Leave

25.40.10 Leave Processing

25.40.10.a The rules regarding the use and accrual of vacation, sick, personal and compensatory time are in accordance with the negotiated Labor Contracts and the Bureau of Human Resources Policy and Practices Manual (Sections 14.1, 14.2, 14.3, 11.4).

The rules implemented for the MS-TAMS system regarding the use and accrual of vacation, sick, personal and compensated time must be in compliance with the negotiated contracts for each respective bargaining unit. Specifically, the contract articles on sick and vacation time referring to “Effective upon implementation of the MFASIS Project’s Leave Accrual Module” are the rule. An outline of how these rules are implemented is listed below:

1. Sick and vacation time are accrued, following each biweekly work period, based on the biweekly accrual rates provided in the labor contracts. To simplify the calculation, the rates in the contracts are increased to the next whole tenth of an hour.
2. Employees may charge leave time up to their current balance for the respective leave type. If the employee does not have a sufficient balance or alternative leave to charge, then the employee will have to indicate unpaid leave.
3. Confidential employees vacation time is accrued at the beginning of the calendar year. Confidential employees hired during the year will have their vacation time accrued on a prorated basis. If a confidential employee leaves during the year, their accrual will be reduced by a prorated amount.
4. Personal leave days for those eligible will be accrued at the beginning of the calendar year. Bargaining unit employees must use personal days before the end of the year or forfeit the unused time. Confidential employees with unused personal leave time at the end of the year may roll that into their vacation balance.
5. Leave balances cannot exceed the limits stated in the labor contracts.
6. Department payroll officers are able to post adjusting leave entries

to an employee's record for specified circumstances.

25.40.20**Termination benefits**

Termination benefits are defined as unused employee leave balances that represent a true liability to the State of Maine such as earned but unused vacation and sick time to retired or terminated employees. (Sick leave applies to Judicial employees only)

Accrued (earned) benefits must be paid out according to the Collective Bargaining Agreement in effect at the time of termination or by the Human Resources Division "Rules Governing Paid Leave or by Other Benefits for Managers and Confidential Employees" issued by the Bureau of Human Resources.

Payments must be paid within one pay period from when the employee terminates and must be charged to the same Fiscal Year the termination occurs.

25.40.30**Accrued sick leave buyout**

Accrued (earned) sick leave benefits must be paid out according to the Judicial Collective Bargaining agreements in effect at the time of termination.

25.50

Payroll Deductions and Reductions

25.50.10 Payroll Deduction Administration

Payroll deductions or reductions are amounts withheld from an employee's wages. Reductions affect gross income, deductions do not. Deductions are classified as mandatory or voluntary. All deductions must be authorized by statute or other legal authority.

25.50.20 Mandatory Deductions

Mandatory payroll deductions are mandated by statute and can either be pre or post tax deductions. Mandatory deductions include federal and state taxes, retirement contributions, and wage garnishments.

25.50.30 Voluntary Deductions

Voluntary payroll deductions are for programs that are legislatively authorized pursuant to Title 5 as a program in which the State of Maine's fiduciary responsibility is limited solely to ensuring that the employee's requested deduction is disbursed to the designated authorized vendor. Voluntary deductions are payroll deductions that an employee can authorize to be taken from their net pay and have it paid directly to an authorized vendor. All voluntary deductions must be approved by the Controllers Office. The Controllers Office must be notified at least six months in advance of any anticipated new voluntary deduction.

25.50.40 Deduction Descriptions

Federal Tax - mandatory deduction for federal tax based on employee's Form W-4.

Medicare Tax – mandatory deduction for Medicare tax for employees hired on or after 4/1/86.

State Tax – mandatory deduction for state tax based on employee's Form W-4ME.

MSRS Regular Retirement – mandatory pre-tax deduction for employee share of regular retirement contribution.

Wage Garnishments – mandatory post-tax deduction to satisfy a bankruptcy order, a child support order, IRS tax levy, State tax levy, and court ordered garnishments.

MSRS Payback Retirement – upon approval of the Retirement System, a voluntary deduction for an employee who wants to buy back months/years of eligible retirement benefit after having had a break in their state service.

Health Insurance – voluntary pre-tax deduction for health insurance premiums.

Dental Insurance – voluntary pre-tax deduction for dental insurance premiums.

Basic Life Insurance – voluntary post-tax deduction for life insurance premiums.

Long Term Care Insurance – voluntary post-tax deduction to purchase long-term care insurance.

Union Dues – post-tax deductions for union dues for employees who belong to a bargaining unit.

Union Income Protection Deductions – voluntary post-tax deduction for union sponsored income protection.

Medical and Dependent Care Reimbursement Program – voluntary pre-tax deduction for dependent and medical care assistance program. Subject to an annual limit.

Deferred Compensation – voluntary pre-tax deduction to a deferred retirement savings plan. Subject to an annual limit.

Savings Bonds – voluntary post-tax deduction to purchase savings bonds.

MSECCA – voluntary post-tax deduction for a contribution to the Maine State Employees Combined Charitable Appeal (MSECCA)

Employee Responsibilities

The employee is solely responsible for:

- Providing his/her payroll Department with the necessary authorization when starting or changing a payroll deduction.
- Providing his/her payroll Department with the necessary discontinuation form when ending a payroll deduction.
- Knowing what type of policy/account they have, who their authorized vendor is, what their policy/account contains, and the amount they have authorized to be deducted through the payroll system.

Payroll Department Responsibilities

The payroll Department is solely responsible for:

- Verifying, entering or discontinuing an employee's voluntary payroll deduction based on authorization provided to them by the employee.
- Making changes or canceling an employee's voluntary deduction only with written authorization from the employee, or the Office of the State Controller.
- Rectifying immediately, upon discovery, any data entry error made by the payroll Department and reporting such error to the Office of the State Controller for guidance on how to recapture any misdirected payments on behalf of the employee.
- The payroll Department is not responsible for knowing what type of policy/account an employee has or what their policy/account contains.

Authorized Vendor Responsibilities

The authorized vendor is responsible for:

- Correctly applying payments received from the payroll system of the State of Maine on behalf of its employee(s).
- Providing employees with information, policy or otherwise regarding their authorized plan.

Office of the State Controller Responsibilities

The Bureau of Accounts and Control is responsible for:

- Reviewing and approving/disapproving all payroll deduction requests from Departments/Vendors in accordance legal authority.
- Providing a system that will accurately process deductions on behalf of employees.
- Establishing clear guidelines, communicating changes in policy and providing payroll systems that can accurately and completely remit authorized deductions to authorized vendors.

25.50.60 Federal Income Tax

The Internal Revenue Service (IRS) requires employers to withhold federal income tax from wages paid to their current and former employees based on the withholding exemptions claimed on the employee's Form W-4 (Employee's Withholding Allowance Certificate).

Employee's Withholding Allowance Certificates (Forms W-4)

Employers are required to provide Forms W-4 to their employees and the employees are required to submit to their employer, upon hire, a completed Form W-4 "Employee's Withholding Allowance Certificate". This certificate provides the basis for determining the proper amount of tax to withhold from an employee's wages. If an employee does not submit a completed Form W-4, federal income tax will be withheld at the single status rate, with no withholding allowances. If an employee claims more than 10 withholding allowances and his or her wages are more than \$200.00 per week, the Controller's Office is required to submit copies of the employee's W-4 to the IRS at the end of the quarter the W-4 was received.

Employees who wish to have a fixed dollar amount of wages withheld should review the federal withholding tables and request the desired amount of withholding based on the options available on the form W-4 (e.g., marital status, allowances, and additional amounts. It should be noted that when an employee's tax record reflects a fixed dollar amount, that fixed amount would be withheld from all checks issued to an employee. (e.g. employee receives a check for regular pay and a check for a longevity bonus, the fixed amount will be withheld from both payments.)

Every State of Maine Payroll Department is required to keep Form W-4's on file for their current employees for at least three years after the date the tax was due.

Form W-4 withholdings must be put into effect by the employee's payroll Department for the first payroll period ending after the Form W-4 is submitted. A Form W-4 remains in effect until the employee submits a new one.

If employees wish to make changes to their withholding allowances, they must submit a new Form W-4 to their payroll Department. This Form W-4 must be put into effect by the payroll Department no later than the beginning of the first payroll period ending on or after the 30th day after the form is received by the Payroll Department.

The State of Maine is required to provide each employee with a yearly Form W-2 statement detailing the total amount of federal tax deducted from their wages.

Form W-4's can be downloaded from the IRS Forms and Instructions website:

http://www.irs.gov/forms_pubs/forms.html

Claiming Exempt on Form W-4

Employees (including Non Resident Aliens) who claim an exemption from tax withholding on their Form W-4 must submit a new Form W-4 annually, attesting to their exempt status. Claims of exemption can be in effect for a maximum of one calendar year at which time the employee must re-file to claim Exempt status. If the employee does not submit a new Form W-4 for the new calendar year by February 15th of that year, they will have their tax status reset to the single status rate, with no withholding allowances.

25.50.70

Medicare Tax

MEDICARE

Departments are responsible for determining and/or verifying the Medicare tax status of each of their employees. This requires confirming whether an employee has a concurrent job and ensuring that both jobs have the same/correct Medicare status in MFASIS/HR.

Employees of the State of Maine may be subject to the Medicare tax for hospital insurance coverage. The Consolidated Omnibus Budget and Reconciliation Act (COBRA), which became law in April 1986, provides that governmental employees, both state and contract employees, hired after March 31, 1986, are entitled to participate in Medicare health insurance coverage and are required to contribute the Medicare portion of the FICA tax. The governmental employer is, in turn, required to match the amount of the employee's contribution. Each Department is assessed the cost of the employer paid portion of Medicare tax applicable to their employees. Certain services are excluded from the Medicare tax. These exclusions pertain regardless of the date the employee was hired. Any questions regarding employees not subject to Medicare tax should be directed to the Bureau of Accounts and Control/ Payroll Division.

REFUNDING OF MEDICARE TAX

If a Department determines that an employee is owed a current or prior year Medicare tax refund, the Department is required to submit a completed "Medicare Tax Refund Request" form, with the appropriate attachments, to the Bureau of Accounts and Control for each tax year affected. Medicare tax refunds can only be processed for the current tax year, and the three consecutive prior tax years.

The "Medicare Tax Refund Request" form can be found on the office of the State Controller website.

25.50.80 State Tax Withholding

STATE WITHHOLDING TAX

Maine Revenue Services requires employers to withhold state income tax from wages paid to their employees based on the withholding exemptions claimed on the employee's withholding allowance certificates (Forms W-4ME)

Employees are required to submit, upon hire, a completed Form W-4ME "Employee's Withholding Allowance Certificate" to their Department. This certificate provides the basis for determining the proper amount of tax to withhold from an employee's wages.

If an employee does not submit a completed Form W-4ME state income tax will be withheld at the single status rate, with no withholding exemptions.

If employees make changes to their withholding allowances, they must submit a new Form W-4ME to their payroll Department.

The State of Maine is required to provide each employee with a yearly W-2 statement detailing the total amount of state withholding tax deducted from their wages.

Form W-4ME's can be downloaded from Revenue Services website:

<http://www.state.me.us/revenue/forms/W-4ME.PDF>

25.50.90

Tax Refunds

The Payroll Unit at the Office of the State Controller manages requests for payroll tax refunds for all state Departments. Payroll taxes include federal withholding, state withholding and Medicare tax.

Departments can request payroll tax refunds from the Office of the State Controller when an error has been made on an employee's tax withholding. Only those employees who have had tax withheld in error are eligible to receive a refund.

25.50.90.a

Federal Tax Refunds

The Office of the State Controller can refund both Federal and State Taxes for the current W2 year only.

25.50.90.b

Medicare Tax Refunds

The Office of the State Controller can refund Medicare Tax for the current and prior three W2 years.

25.60

Garnishments and Wage Assignments

25.60.10

Garnishments and Levies

Garnishments are mandatory deductions authorized by a court order, federal or state tax levy or other legal entity to be taken from an employee's after-tax wages according to the written instructions accompanying the garnishment order. All payments received by an employee for compensation are subject to garnishment. Only those garnishments that identify Maine as the employer and direct the Maine to garnish the pay, and are authorized by a court order, federal law, or state law can be deducted through the payroll system. All changes must be authorized in the same manner as when originally adopted. No Garnishments will be taken in arrears.

The Office of the Comptroller establishes/identifies and implements the policy on Wage Garnishments in accordance with applicable IRS tax laws, and other applicable garnishment laws.

Wage Garnishments and Levies:

Are administered by the Office of the Comptroller;

Are mandated by court order, federal/state tax levy or other legal entity to be deducted by the employer;

Are deducted in every biweekly pay period; and

Are deducted on a mandatory post-tax basis.

Must be discontinued by the Department upon an employee's retirement, termination or death.

The Controller's Office is (through MFASIS – HR) required to report new hires to the Department of Health & Human Services weekly. The Information Technology Division will submit a new hire report to DHHS for state and contract employees on a pay period basis on behalf of HRD.

Discharge of Garnishment

Garnishments may not be modified (increased or reduced) or cancelled at the employees request, but may only be modified by an amendment from the entity that submitted the original garnishment order. However, MFASIS/HR will halt garnishments with a specific total obligation once that obligation has been met. A release must be received by the State of Maine in order for the garnishment to be closed.

Retirement/Termination or Death

The Comptroller's Office will, upon retirement/termination or death, discontinue garnishing from future payouts effective same date regardless of future temporary employment.

25.60.10.a **Disposable Earnings Subject to Garnishments**

Disposable earnings are that part of an employee's earnings remaining after deductions required by law are taken. It is used to determine the amount of an employee's pay that is subject to garnishment. The maximum allowable garnishment differs according to the type of garnishment order. In all cases, however, the disposable earnings must exclude deductions required by law: federal taxes, state and local taxes, and retirement contributions. When an employee's wages are not enough to satisfy the garnishment(s), a "partial" amount will be taken. No garnishment will be taken in arrears.

25.60.10.b **Employees with multiple jobs**

When a garnishment order is issued to an employee who holds multiple jobs, the Department must indicate which wage payment the garnishment will be deducted from. The wage payment selected must be able to satisfy the biweekly garnishment deduction.

25.60.20 Child support

25.60.20.a **Child support debt collection overview**

Child support can be enforced through payroll deduction notices, administrative orders (notice and order to withhold and deliver child support), mandatory wage assignment orders, and out-of-state child support orders or notices.

25.60.20.b

Payroll deduction notice

The Department of Health & Human Services (DHHS) may issue a payroll deduction notice to collect child support. The notice is effective immediately upon receipt by the agency.

The payroll deduction notice can capture up to 50 percent of the employee's disposable earnings. Any earnings withheld must be remitted to DHHS within 7 working days of the date the earnings are payable.

The deduction notice remains in effect until released, until the employee is no longer employed, or until the agency no longer possesses any earnings.

25.60.20.c

Notice and order to withhold and deliver for child support

A notice and order to withhold and deliver (order) is an administrative order to withhold earnings for child support. Similar to a payroll deduction notice, an order is effective immediately upon receipt by the Controller's Office. The agency must begin withholding funds immediately.

The order can capture up to 50 percent of the employee's disposable earnings. Any earnings withheld must be remitted to DSHS within 7 working days of the date the earnings are payable.

The order remains in effect until released, until the employee is no longer employed, or until the agency no longer processes any earnings.

25.60.20.d

Mandatory child support wage assignment order

A court of law may issue a wage assignment to collect child support. Wage assignment orders are effective immediately upon service on the agency.

Withholding under such an order may not exceed 50 percent of the employee's disposable earnings.

A wage assignment order continues until paid, released, or the agency is no longer holding any earnings. An agency must promptly notify the addressee specified in the assignment when the employee is no longer employed.

25.60.20.e **Out-of-state child support orders or notices**

The Controller's Office must withhold earnings when it receives a document from an out-of-state entity requiring the withholding wages for child support. It may be served directly upon the agency and begins the day received. Follow the procedures provided in the notice.

25.60.20.f **Spousal Support Orders**

Spousal support garnishment orders not involving children follow the same guidelines for disposable earnings as Child Support orders listed above.

25.60.30 Wage assignments

25.60.30.a **Wage assignments overview**

There are generally two types of wage assignments – voluntary wage assignments and mandatory wage assignments. A voluntary wage assignment is an employee's written consent to transfer future wages to a third party (assignee). Wage assignments are generally only for a part of the employee's wages. A mandatory wage assignment is a similar transfer of earnings required by law or court order. The amount deducted under the wage assignment can exceed the 25 percent limit of a writ of garnishment.

25.60.30.b **Voluntary wage assignment**

Agencies may accept or decline to honor a voluntary wage assignment. However, honoring a voluntary wage assignment may forestall a garnishment, which results in significantly more work for an agency. An agency accepting a wage assignment should notify the employee and the assignee that the agency's acceptance is conditioned on (1) the agency not being liable for mistakes or omissions in honoring the assignment and (2) that enforced wage collections (e.g., garnishments) will take precedence over the assignment.

Before honoring such an assignment, the agency should obtain a copy of the assignment signed by the employee. If the employee is married, written consent to the assignment by the employee's spouse is also necessary for non-child support debts.

25.60.30.c **Mandatory wage assignments**

A mandatory wage assignment most often requires the transfer of earnings based upon a court order or agency directive. The legislature provided for the mandatory assignment of wages for child support, criminal financial obligations and public assistance overpayments. A mandatory wage assignment should be processed in accordance with the terms of the assignment or court order. Continue to withhold earnings until the debt is paid in full unless the assignment states otherwise.

25.60.40 Other debt collection procedures

25.60.40.a **Bankruptcy**

When notified of a bankruptcy filing by an employee, the agency should request that the employee provide written confirmation of the bankruptcy filing. This could include a letter from the employee's attorney with the bankruptcy court case number, a copy of the first page of the bankruptcy petition, or a copy of a bankruptcy filing receipt with the court's case number.

Once the agency has confirmation of the bankruptcy, the agency must stop deducting earnings under non-child support garnishment, administrative order, and/or wage assignment. However, child support withholding should continue unless instructed otherwise by the court.

If the employee files a Chapter 13 bankruptcy, the Chapter 13 Trustee will forward a court order requiring the withholding of earnings. The agency must withhold and forward the earnings as indicated in the Order. Withholding under such an order can exceed 25 percent of disposable earnings. The Chapter 13 Trustee Office can answer any general questions regarding the bankruptcy order.

25.60.40.b **Tax collection**

The IRS and state taxing agencies use tax levies to capture the earnings of an employee. The IRS uses a “Notice of Tax Levy.” The Departments of Revenue, Labor & Industries, and Employment Security use a Notice and Order to Withhold and Deliver (NOWD)

The Controller’s Office will begin immediately withholding earnings in accordance with the tax levy or NOWD. A tax levy and NOWD are also continuing liens on earnings. Withholding should continue until paid in full, released, or earnings are no longer available to garnish.

25.60.40.c **Educational loans**

Federal law allows for the collection of federally guaranteed student loans through an administrative order. An agency must honor the withholding order as if issued by a court of this State.

25.70

Payment Methods

25.70.10 Employee payment options

There are two ways to pay employees: by warrant (check), or, by direct deposit into an employee's account. Direct deposit requires written authorization by the employee.

25.70.20 Agency deposit of employee's earnings

There are three methods of depositing an employee's earnings: (a) Electronic Funds Transfer of aggregate net pay and (b) Individual employee warrants (checks).

Regardless of the method used, an employee is limited to four banks and four accounts for direct deposit of pay.

25.70.20.a. Employee requirements for direct deposit by EFT

- The employee is paid through the MFASIS HR payroll system.
- The employee is paid on a regularly scheduled payroll.
- An employee signed authorization for direct deposit by EFT is on file at the agency.
- The employee has an account in either a bank or credit union that belongs to an automated clearing house or is an open access member of a federal reserve bank.

25.70.20.a.(1) Agency requirements for direct deposit of employee's net pay by EFT

- An agency's internal controls must include a positive validation of the amounts transferred for an employee's net pay.
- The procedures should be designed to prevent a loss of state funds.

25.70.20.a.(2) Payroll system requirements for direct deposit of employee's net pay by EFT

Payroll systems must develop standard procedures that apply to agencies participating in the system.

The Office of the State Controller must approve direct deposit programs prior to implementation.

Standard procedures require that the employee receive a “Notice of Deposit” in place of a warrant that contains the following information:

- The name of the bank or credit union receiving the deposit of net pay.
- The Transit Routing Number
- The employee’s account number.
- The employee’s name.
- The amount of the deposit.

25.70.20.a.(3)

Requirements for financial institutions used in direct deposit programs by EFT

The bank or credit union must be a member of an automated clearing house association or an open access member of a federal reserve bank.

The bank or credit union must confirm all requests transmitted for verification of the employee’s account number.

The bank or credit union should not process any deposits to an employee’s account without a valid account number.

25.70.30

Amounts due to deceased employees

When an employee dies, promptly change the employee name record to “Estate of” in the MFASIS HR System.

The term “amount owed to the deceased” means amounts owed for labor or services performed by the deceased and/or expense reimbursements or allowances.

25.70.40

Pay Check – Commercial Solicitation

No commercial (or other) solicitation material is to be distributed with State checks or advices without the express permission of the State Treasurer and the State Controller.

Any requests for distribution of solicitation material should be reported immediately to the State Treasurer and the State Controller.

The only exception to this policy is that agencies may communicate official, agency specific, information to their employees, clients or customers.

25.70.50**Policy on Replacement, Supplemental, & Advance Payments**

If an agency discovers an error in an employee's paycheck, the policy for replacement and supplemental checks is:

1. Contact OSC Payroll Division for approval, before initiating the check process.
2. Replacement / supplemental checks will not be issued for missing overtime or special pays, except under hardship circumstances. These omissions should be compensated for in the next regular paycheck.
3. The original check must be returned before a replacement check can be issued.

If an employee, upon receipt of their paycheck, discovers an error which the agency determines to be legitimate, the same policy as above applies.

POLICY ON ADVANCE PAYMENTS

Advance payments provide a mechanism to compensate an employee, for one pay period (or one week), when the agency is unable to complete the procedures necessary to activate that employee in an authorized position in the MFASIS Human Resource System. Advance payments should not be issued to any new employee, for time worked in a pay period with a week ending date greater than the week ending date being paid to regular employees. Advance payments are also used for any active employee that was not paid any wages at all, and should have been, for a given pay period.

Remember, these are accounts payable checks, cut from the General Accounting System, and should be in OSC Payroll no later than 2:00PM for processing to begin.

25.10.40**Employee definitions****25.10.40.a****State Employee**

6. Employee. "Employee" means any person holding a position subject to appointment by an appointing authority. [1985, c. 785, Pt. B, §38 (new).]

6-A. Employee from the executive branch in the unclassified service. "Employee from the executive branch in the unclassified service" means all executive branch employees listed in section 931, but does not include any elective or constitutional officers listed in that section or their direct appointees. [1997, c. 498, §2 (new).]

25.75

Miscellaneous

25.75.10 Commercial Solicitation

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4. Contact OSC Payroll Division for approval, before initiating the check process.
5. Replacement / supplemental checks will not be issued for missing overtime or special pays, except under hardship circumstances. These omissions should be compensated for in the next regular paycheck.
6. The original check must be returned before a replacement check can be issued.

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25.80

Salary overpayment recoveries

25.80.10 Definitions

Overpayment means a payment of wages for a pay period that is greater than the amount earned for a pay period.

Involuntary wage deduction means a wage deduction the agency imposes through the procedures detailed in this section.

25.80.20 Recovery of overpayments to employees

26 M.R.S.A. Section 635, effective July 14, 1990 has clarified the procedures that employers must use to recover overpayments made to employees because of employer error. This law and procedure must be followed if the employee did not knowingly accept the overcompensation. If the overcompensation is less than 15% of the correct net amount of the employee's compensation, the employer must prove by clear and convincing evidence that the employee knowingly accepted the overcompensation. Presumably, if the overpayment is more than 15% of the correct net amount of the employee's compensation, the employee knowingly accepted the overcompensation.

This law does not apply if the employee knowingly accepted the overcompensation. However, failure to follow the procedures set out in the law to recover overpayments where the employee did not knowingly accept the overcompensation will result in the employer's forfeiture of all claims to the overcompensation. To implement the statute the following principle should be followed when overpayment occurs without the employee's knowing acceptance.

An employer who has overcompensated an employee through employer error may not withhold more than 10% of the net amount of any subsequent pay without the employee's written permission, except that, if the employee voluntarily terminates employment, the employer may deduct the full amount of overcompensation from any wages due.

The law makes it clear that overpayments to employees may be recovered by the employer if the proper steps are followed. To insure recovery

Departments should talk to employees who have been overpaid and work out an arrangement to recover the overpayment. If the overpayment was less than 15% of the normal net pay and if no arrangements are made with the employee, do not withhold more than 10% of the employee's net pay to recover the overpayment.

25.80.30 Recovery methods

When an employee receives a full paycheck in error, it is the Department's responsibility to recover the overpayment and return the money to the Controller's Office for deposit in the Department's account. The Department must take the following steps:

- Contact the employee requesting the return of the full amount of the overpayment in the form of the "check" or personal check, bank check for the direct deposit amount. If the employee does not send the full payment within 10 days, a certified letter requesting the return should be sent.
- Once the payment is received from the employee, the Department must submit the payment along with a payment refusal form to the Controller's Office.

25.80.40 Partial recovery for active employees

When an overpayment is made to an employee who is currently active in the payroll system, it is the Department's responsibility to recover the amount that was overpaid. This is accomplished by making an adjustment in the MFASIS HR System. The following steps must be taken:

- Notify the employee of the overpayment.
- Reduce the employee's earnings by the overpayment amount in the next pay period. If you cannot recover the total amount in one pay period, use the next pay period(s) until the total recovery amount is satisfied.
- Recoveries of overpayment to active employees cannot bridge calendar years. If it would be necessary to recover the overpayment and the next pay period falls within the next tax year, please see **Recovery of Funds for a Previous Tax Year** for details.

25.80.50 Recovery for funds affecting a previous tax year

When funds are recovered for a previous tax year (i.e., funds received in February for a payment made in November), the Department must take the following steps:

- Send the employee a certified letter requesting the return of the overpayment in the form of a money order, bank check, or certified check.
- If applicable, request the Controller's Office to contact the appropriate vendor(s), requesting the return of the full amount(s) for each deduction.
- Once the payments are received from the employee the Controller's Office will enter a Cash Receipt (CR) and payment reversal transaction. This will adjust the history in HR and accounting information.
- Submit a request for a W2C to the Comptroller's Payroll Unit
- If an employee repays wages received in error in a prior year, the form W2C will correct only Medicare wages and Medicare tax. Wages paid in error in a prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. This is consistent with the IRS instructions for Forms W2C and W3C.

25.80.60	Employee termination from state with balance owing
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An employer who has overcompensated an employee through employer error may not withhold more than 10% of the net amount of any subsequent pay without the employee's written permission, except that, if the employee voluntarily terminates employment, the employer may deduct the full amount of overcompensation from any wages due.

25.80.70	Agency internal control system to prevent overpayments
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All agencies are to maintain an effective system of internal controls to prevent salary and wage overpayments.

All employees and all agency staff who affect the pay process in an agency including those who approve payroll, enter time, work with personnel actions, calculate payroll, produce payroll, or distribute payroll are responsible to assist in achieving an overall effective system of control to produce accurate timely payrolls.

25.90

Retroactive payments

25.90.10 Policy Definitions

Listed below are types of retroactive payments issued in the MFASIS HR System:

- Those that are the result of a collective bargaining agreement.
- Those that are the result of other retroactive compensation for an individual or groups of individuals.
- Those that are a result of a position reclassification.
- Those that are a result of the an employees late annual merit increase.

25.90.20 Collective bargaining agreement payments

25.90.30 Other retroactive compensation

There are also retroactive payments made to individuals or groups of individuals based on legal decisions that are usually the result of litigation, arbitration, mediation or internal Department determination. All these payments are subject to appropriation and should be paid during the year the decision was made. For example, if the decision is made in FY2003, the payment should be made from FY2003 funds. This compensation may be paid from one of three funding sources:

1. Current Department appropriated funds for the purpose of the retroactive payments or for payroll expenditures.
2. Settlement and judgment account.
3. Supplemental appropriated funds for the purpose of the retroactive payments or for payroll expenditures.

Departments can seek assistance from the Comptroller's Office as to which funding source would be appropriate for their type of retroactive compensation.

Wage related settlement payments must be paid through the MFASIS – HR

system. This policy applies to active and inactive employees. Former employees who need to receive a retroactive payment will be rehired and then terminated in the HR system. Please contact the Payroll Division in the Controller's Office for further process instructions.

25.90.40**Examples of Other Retroactive Compensation**

Listed below are some examples of retroactive payments that are based on a legal decision.

- Judgments issued to resolve court cases, which have retroactive dates to a previous fiscal year (e.g., Employee was returned to employment after winning civil suit on discrimination).
- Arbitrator's decisions awarding back pay for a previous fiscal year.
- Decisions issued under a collective bargaining grievance procedure that would award back pay or reinstatement going back to a previous fiscal year.